

SENATE BILL 3692

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 101 and Title 70, Chapter 4, Part 4,
relative to the keeping of primates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 70-4-403, is amended by deleting subdivision (3)(M) in its entirety, and by redesignating the remaining subdivisions accordingly.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 101, is amended by adding the following as a new section:

(a) As used in this section, unless the context otherwise requires:

(1) "Class I wildlife" has the same meaning as in § 70-4-403;

(2) "Department" means the department of health;

(3) "Law enforcement officer" means any police officer of a Tennessee municipality, any commissioned member of the department of safety, the wildlife resources agency, or the Tennessee bureau of investigation, and any Tennessee county sheriff or deputy sheriff actually engaged in law enforcement, or any correctional officer employed by the department of correction or the department of children's services;

(4) "Person" means any individual, partnership, corporation, organization, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof;

(5) "Primate" means all species of nonhuman primates; and

(6) "Wildlife sanctuary" means a nonprofit organization that:

(A) Operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the lifetime of the animal;

(B) Does not conduct any commercial activity with respect to any primates or Class I wildlife, including, but not limited to:

(i) The sale, trade, auction, lease, or loan of primates or Class I wildlife or parts of such animals; or

(ii) Use of primates or Class I wildlife in any manner in a for-profit business or operation;

(C) Does not use primates or Class I wildlife for entertainment purposes or in a traveling exhibit;

(D) Does not breed any primates or Class I wildlife; and

(E) Does not allow members of the public the opportunity to come into contact with primates or Class I wildlife.

(b) Notwithstanding any other law other than subsections (c) and (d), it is an offense for any person to possess, sell, transfer, or breed a primate.

(c) Subsection (b) does not apply to:

(1) Institutions accredited by the Association of Zoos and Aquariums ("AZA") or any AZA-certified related facility; provided, that such facilities do not allow the public to come into direct physical contact with any primates or Class I wildlife;

(2) A research facility as defined by the Animal Welfare Act, compiled at 7 U.S.C.A. §§ 2131 et seq., as amended, for the species of animals for which they are registered;

(3) Wildlife sanctuaries;

(4) Legally incorporated nonprofit animal protection organizations, such as humane societies and shelters, temporarily housing a primate at the written request of law enforcement officers acting under the authority of this section;

(5) Licensed veterinary hospitals for the purpose of providing treatment to a primate;

(6) Law enforcement officers acting under the authority of this section;

(7) Circuses, defined as incorporated, class C licensees under the Animal Welfare Act, compiled at 7 U.S.C.A. §§ 2131 et seq., as amended, that are temporarily in this state, and that offer performances by live animals, clowns, and acrobats for public entertainment; and

(8) A person temporarily transporting a legally-owned primate through the state if the transit time is not more than twenty-four (24) hours, the primate is not exhibited, and the primate is maintained at all times in a species-appropriate cage or other travel container so that there is no opportunity for physical contact with any member of the public. Such transporters shall provide notice of the transport to the department at least seventy-two (72) hours prior to entering the state and identify the number and type of primates that will be transported. The notification required by this subdivision (c)(8) is in addition to any veterinary certificate or other permits required by state, local, or federal law.

(d) The prohibitions in subsection (b) shall not apply to any person who lawfully possessed a primate prior to July 1, 2012, provided that such person:

(1) Maintains veterinary records, acquisition papers, or other documents or records that establish that the person possessed the animal prior to July 1, 2012, and presents the paperwork to a law enforcement officer upon request. The person shall have the burden of proving that such person possessed the animal prior to July 1, 2012;

(2) May not acquire additional primates on or after July 1, 2012, whether by purchase, donation, trade, or breeding;

(3) Is not convicted on or after July 1, 2012, of an offense involving the abuse or neglect of any animal pursuant to any state, local, or federal law;

(4) Does not have a license or permit regarding the care, possession, exhibition, breeding, or sale of animals revoked or suspended by any state, local, or federal agency on or after July 1, 2012;

(5) Does not allow members of the public any opportunity to come into direct physical contact with a primate of any age; and

(6) Registers with, and pay a registration fee to the department by September 1, 2012, and annually thereafter, indicating the number and species of nonhuman primates in such person's possession, and showing proof of liability insurance in an amount of not less than one hundred thousand dollars (\$100,000), with a deductible of not more than two hundred and fifty dollars (\$250), for each occurrence of property damage, bodily injury, or death caused by any primate possessed by the person.

(e) The department shall promulgate rules and regulations to effectuate the purposes of this section. All such rules and regulations shall be promulgated

in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Any violation of this section, or any rules or regulations promulgated pursuant to this section, is a Class A misdemeanor. Law enforcement officers may immediately seize any primate they have probable cause to believe is possessed in violation of this section so long as such seizure does not violate any other law.

(g) A city or county may adopt an ordinance that is more restrictive than this section. However, nothing in this section requires a city or county to adopt an ordinance to be in compliance with this section.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law for purposes of promulgating rules and regulations, the public welfare requiring it and on July 1, 2012, for all other purposes, the public welfare requiring it.